IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 13072 of 2006
Date of decision 15 .9.2006

Ram Lal .. petitioner

Versus

U.H.B.V.N.Ltd and others .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Virinder Kumar, Advocate for the petitioner
Mr. Narinder Hooda Advocate

M.M.Kumar, J.

The petitioner has been working on the post of Commercial Assistant in Operation Sub Division, Munak under Sub Urban Division no. II, Karnal. On 9.10.2002, a charge sheet was issued by respondents to which the petitioner submitted his reply in February, 2003. The petitioner made a representation to the respondents for enhancement of his subsistence allowance after the expiry of period of six months i.e. 12.2.2003 from 50 percent to 75 percent. His case was recommended by respondent no.3 for enhancement of subsistence allowance from 50 percent to 75 percent. On a representation filed again, which was recommended again on 18.8.2004, no action was taken. On 8.9.2004, the Superintending Engineer, respondent no.2, also recommended his case for enhancement of subsistence allowance. Similar representation was again filed but without any fruit. Eventually, the petitioner sent a legal notice under registered cover through his counsel on 31.5.2006.

The stand of the respondents in the written statement is that the petitioner is facing serious charges of mis-conduct which have been levelled

on the basis of the report of State Vigilance Bureau, Karnal and even FIR No. 23 dated 17.5.2002 has been registered against the petitioner by the State Vigilance Bureau, Rohtak. The averments made by the petitioner with regard to recommendation of his case by respondent no.3 to respondent no.2 and in turn by respondent no.2 to respondent no.1 on various occasions have not been denied. There is nothing on the record to suggest that the petitioner is in any manner responsible for causing the delay in the conclusion of departmental enquiry initiated against him.

Having the learned counsel for the parties, at some length, we are of the view that the case of the petitioner for enhancement of subsistence allowance from 50 percent to 75 percent on the expiry of period of six months is well made out. According to Rule 7.2 of the Punjab Civil Service Rules, Vol. I, Part I, as applicable to Haryana, the petitioner is entitled to enhanced subsistence allowance after the expiry of six months. The relevant part of the afore-mentioned rule is as under:

> " 7.2.(1) A Government employee under suspension shall be entitled to the following payments, namely:
>
> (i)xx xx xx xx
>
> (ii) In the case of any other Government employee--
>
> (a) a subsistence allowance at an amount equal to the leave salary which the Government employee would have drawn if he had been on leave on half pay, and in addition dearness allowance, if admissible, on the basis of such leave salary:
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> Provided that where the period of suspension exceeds six months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the

amount of subsistence allowance for any period subsequent to the period of the first months as follows:-

(i) the amount of subsistence allowance may be increased by a suitable not exceeding 50 percent of the subsistence allowance admissible during the period of the first six months, if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government employee.

(ii) and (iii) xx xx xx xx

(b) xx xx xx xx xx

(2) No payment under sub rule (1) shall be made unless the Government employee furnishes a certificate that he is not engaged in any other employment, business, profession or vocation."

A perusal of the above rule shows that the petitioner is entitled to 50 percent of the subsistence allowance during the first six months. However, the afore-mentioned enhancement to the extent of 25 percent is admissible if the period of suspension has been prolonged for reasons not directly attributable to the delinquent employee. As has already been observed above, there is nothing in the written statement showing that the petitioner is in any way responsible for causing delay in the conclusion of enquiry. Therefore, we are of the considered view that the claim made by the petitioner is meritorious.

In view of the above, writ petition is allowed. A direction is issued to the respondents to enhance the subsistence allowance of the

petitioner from 50 percent to 75 percent w.e.f. 12.2.2003. The arrears be calculated within a period of one month from the date of receipt of certified copy of this order and the same be paid to the petitioner. If the petitioner is not paid the arrears within one month , then the petitioner shall be entitled to interest @ 6 percent p.a. from the date the subsistence allowance is payable till the date of actual payment.

(M.M.Kumar)
Judge

(M.M.S.Bedi)
Judge

15.9.2006
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